

C.I.T. CORPORATION

Industrial and Commercial Financing

SUITE 1010, 300 S. WACKER DRIVE, CHICAGO, ILL. 60606

(912) 939-3700

August 24, 1973

U. S. Scrap Corporation
391 East Kensington Avenue
Chicago, Illinois

Re: All-State Equipment Co.
Account # 56273-09

Past Due:	August 9, 1973:	\$ 2689.19
Late Fees:		<u>13.45</u>
Total:		\$ 2702.64

Gentlemen:

Please refer to my previous letter, in which I requested your check to retire the above delinquency.

To date we have not received your check. Please forward your check TODAY so that we may receive it within five days or we will have to assess further late charges.

If you anticipate any further delay in making this payment, please contact me immediately.

Very truly yours,

C.I.T. Corporation



Joseph F. Bargo
Credit Department

JFB/mt

5627

February 23, 1973
(Month, Day)

LESSEE: **U. S. Scrap Corp.**

Address: No. **391 East Kensington Avenue** (Street or Avenue)
(For corporation, show location of principal place of business in state as shown in charter if equipment is in same state; otherwise insert actual business address. For individual, show residence. For partnership, show place of business and also name and residence of each partner.)

City **Chicago** County of **Cook** State **Illinois** Zip Code **60628**

LESSOR: **All-State Equipment Company**

Address: No. **12500 South Cicero Avenue** (Street or Avenue)

City **Alap** County of **Cook** State **Illinois** Zip Code **60165**

Lessor hereby leases to Lessee, and Lessee hereby hires and takes from Lessor the following-described personal property (hereinafter, with all attachments, replacement parts, substitutions, additions, repairs and accessories incorporated therein and/or affixed thereto, and proceeds referred to as "equipment"): (Describe equipment fully, including make, kind of unit, serial and model numbers, and any other pertinent information.)

One (1) - Poclain Model HC300 Hydraulic Crawler Backhoe, Serial Number 124.

and Lessor agrees within **immediately** from the date hereof to cause said equipment to be delivered to Lessee, f.o.b. **Chicago, Illinois**

TERM: This lease is for a term of **36** months, beginning **February 23, 1973**, and ending **February 22, 1976**
(Month, Day)

RENTALS: For said term or any portion thereof, Lessee shall pay to Lessor rentals aggregating \$ **96,810.88**, of which \$ **-0-** is herewith paid in advance and the balance of the rental, \$ **96,810.88**, is payable in **36** equal, successive, monthly rental payments of \$ **2,689.19** each, of which the first is due **April 9, 1973**, and the others on a like date of each month thereafter, until fully paid.
(Month, Day)

PLACE OF USE: Lessee shall keep the equipment at **400 E. 133rd St., Chicago** County of **Cook** State of **Illinois**
(Street Address and City)

State of **Illinois**, until Lessor in writing permits its removal, and shall be used in the conduct of Lessee's business solely.

REPAIRS: Lessor shall not be obligated to install, erect, test, adjust, service or make any repairs or replacements; Lessee shall not incur for Lessor's account or liability any expense therefor without Lessor's prior written consent. Lessee shall inspect the equipment within 48 hours after its receipt; unless within said time Lessee notifies Lessor, stating the details of any defects, Lessee shall be conclusively presumed to have accepted the equipment in its then condition. Thereafter Lessee shall effect and bear the expense of all necessary repairs, maintenance, operation and replacements required to be made to maintain the equipment in good condition, wear and tear excepted.

OPERATORS: Lessee shall cause the equipment to be operated by competent employees only, and shall pay all expenses of operation.

LIABILITY: Lessee shall indemnify and save Lessor harmless from any and all injury to or loss of the equipment from whatever cause, and from liability arising out of the use, maintenance and/or delivery thereof, but shall be credited with any amounts received by Lessor from insurance procured by Lessee. Damage for any loss or injury shall be based on the then true and reasonable market value of the equipment irrespective of rentals theretofore paid or accrued.

INSURANCE: Lessee, at its expense, shall keep said equipment insured, for the term of this lease and any renewals or extensions thereof, for the full insurable value thereof, against fire and theft with extended or combined additional coverage and against such other risks in such amounts as Lessor may specify. Lessee shall on request of Lessor deliver to Lessor the policies or evidence of insurance with a standard long form endorsement attached thereto, showing losses, if any, payable to Lessor, in form satisfactory to Lessor, together with receipts for the premiums thereunder. All insurance policies must provide that no cancellation thereof shall be effective without 30 days prior written notice to Lessor.

TAXES: Lessee shall comply with and conform to all laws, ordinances and regulations relating to the ownership, possession, use or maintenance of the equipment, and save Lessor harmless against actual or asserted violations, and pay all costs and expenses of every character occasioned by or arising out of such use. Lessee agrees that, during the term of this lease, in addition to the rent and all other amounts provided herein to be paid, it will promptly pay all taxes, assessments and other governmental charges (including penalties and interest, if any, and fees for titling or registration, if required) levied or assessed: (a) upon the interest of the Lessee in the equipment or upon the use or operation thereof or on the earnings arising therefrom; and (b) against Lessor on account of its acquisition or ownership of the equipment or any part thereof; or the use or operation thereof or the leasing thereof to the Lessee, or the rent herein provided for, or the earnings arising therefrom, exclusive, however, of any taxes based on net income of Lessor. Lessee agrees to file, in behalf of Lessor, all required tax returns and reports concerning the equipment with all appropriate governmental agencies, and within not more than 45 days after the due date of such filing, to send Lessor confirmation, in form satisfactory to Lessor, of such filing.

TITLE: All said equipment shall remain personal property, and title thereto shall remain in Lessor exclusively. Lessee shall keep the equipment free from any and all liens and claims, and shall do or permit no act or thing whereby Lessor's title or rights may be encumbered or impaired. Upon expiration or termination hereof by other than default, the equipment shall be returned unencumbered to Lessor by Lessee at the place where the rent is payable or to such other place as Lessor and Lessee agree upon, at Lessee's sole expense and in the same condition as when received by Lessee, reasonable wear and tear resulting from proper use thereof alone excepted. Lessee shall pay rent at the said rate until all said equipment arrives at Lessor's premises, or other place designated by Lessor.

INSPECTION: Lessee shall, whenever requested, advise Lessor of the exact location and condition of the equipment and shall give Lessor immediate notice of any attachment or other judicial process affecting the equipment, and indemnify and save Lessor harmless from any loss or damage caused thereby. Lessor may, for the purpose of inspection, at all reasonable times enter upon any job, building or place where the equipment is located; and may remove the equipment forthwith, without notice to Lessee, if the equipment is, in the opinion of Lessor, being used beyond its capacity or in any manner improperly cared for or abused.

NON-WAIVER: Time is of the essence. Lessor's failure at any time to require strict performance by Lessee of any of the provisions hereof shall not waive or diminish Lessor's right thereafter to demand strict compliance therewith or with any other provision. Waiver of any default shall not waive any other default. No remedy of Lessor hereunder shall be exclusive of any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy.

NO WARRANTY: Lessor, not being the manufacturer of the equipment, nor manufacturer's agent, **makes no warranty or representation, either express or implied, as to the fitness, quality, design, condition, capacity, suitability, merchantability or performance of the equipment or of the material or workmanship thereof, it being agreed that the equipment is leased "as is" and that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee at its sole risk and expense.** Lessee accordingly agrees not to assert any claim whatsoever against the Lessor based thereon. Lessee further agrees, regardless of cause, not to assert any claim whatsoever against the Lessor for loss of anticipatory profits or consequential damages. No oral agreement, guaranty, promise, condition, representation or warranty shall be binding; all prior conversations, agreements or representations related hereto and/or to said equipment are integrated herein. No modification hereof shall be binding unless in writing signed by Lessor.

POSSESSION: Lessor covenants to and with Lessee that Lessor is the lawful owner of said equipment free from all encumbrances and that, conditioned upon Lessee's performing the conditions hereof, Lessee shall peaceably and quietly hold, possess and use the equipment during said term without let or hindrance.

PERFORMANCE OF OBLIGATIONS OF LESSEE BY LESSOR: In the event that the Lessee shall fail duly and promptly to perform any of its obligations under the provisions of this lease, the Lessor may, at its option, perform the same for the account of Lessee without thereby waiving such default, and any amount paid or expense (including reasonable attorneys' fees), penalty or other liability incurred by the Lessor in such performance, together with interest at the rate of 1 1/2% per month thereon until paid by the Lessee to the Lessor, shall be payable by the Lessee upon demand as additional rent for the equipment.

FURTHER ASSURANCE: Lessee shall execute and deliver to Lessor, upon Lessor's request such instruments and assurances as Lessor deems necessary or advisable for the confirmation or perfection of this lease and Lessor's right hereunder.

DEFAULT: An event of default shall occur if: (a) Lessee fails to pay when due any instalment of rent and such failure continues for a period of 10 days; (b) Lessee shall fail to perform or observe any covenant, condition or agreement to be performed or observed by it hereunder and such failure continues uncured for 15 days after written notice thereof to Lessee by Lessor; (c) Lessee ceases doing business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy, is adjudicated a bankrupt or an insolvent, files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law or regulation or files an answer admitting the material allegations of a petition filed against it in any such proceeding, consents to or acquiesces in the appointment of a trustee, receiver, or liquidator of it or of all or any substantial part of its assets or properties, or if it or its shareholders shall take any action looking to its dissolution or liquidation; (d) within 60 days after the commencement of any proceedings against Lessee seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceedings shall not have been dismissed, or if within 60 days after the appointment without Lessee's consent or acquiescence of any trustee, receiver or liquidator of it or of all or any substantial part of its assets and properties, such appointment shall not be vacated; or (e) Lessee attempts to remove, sell, transfer, encumber, part with possession or sublet the equipment or any item thereof.

Upon the occurrence of an event of default, Lessor, at its option, may: (a) declare all sums due and to become due hereunder immediately due and payable; (b) proceed by appropriate court action or actions or other proceedings either at law or equity to enforce performance by the Lessee of any and all covenants of this lease and to recover damages for the breach thereof; (c) demand that Lessee deliver the equipment forthwith to Lessor at Lessee's expense at such place as Lessor may designate; and (d) Lessor and/or its agents may, without notice or liability or legal process, enter into any premises of or under control or jurisdiction of Lessee or any agent of Lessee where the equipment may be or by Lessor is believed to be, and repossess all or any item thereof, disconnecting and separating all thereof from any other property and using all force necessary or permitted by applicable law so to do, Lessee hereby expressly waiving all further rights to possession of the equipment and all claims for injuries suffered through or loss caused by such repossession; but the Lessor shall, nevertheless, be entitled to recover immediately as liquidated damages for loss of the bargain and not as a penalty any unpaid rent that accrued on or before the occurrence of the event of default plus an amount equal to the difference between the aggregate rent reserved hereunder for the unexpired term of this lease and the then aggregate rental value of all equipment for such unexpired term, provided, however, that if any statute governing the proceeding in which such damages are to be proved specifies the amount of such claim, Lessor shall be entitled to prove as and for damages for the breach an amount equal to that allowed under such statute. The provisions of this paragraph shall be without prejudice to any rights given to the Lessor by such statute to prove for any amounts allowed thereby. Should any proceedings be instituted by or against Lessor for monies due to Lessor hereunder and/or for possession of any or all of the equipment or for any other relief, Lessee shall pay a reasonable sum as attorneys' fees.

ASSIGNMENTS: Neither this lease nor Lessee's rights hereunder shall be assignable except with Lessor's written consent; the conditions hereof shall bind any permitted successors and assigns of Lessee. Lessor may assign the rents reserved herein or all or any of Lessor's other rights hereunder. After such assignment, Lessor shall not be assignee's agent for any purpose; Lessee will settle all claims arising out of alleged breach of warranties or otherwise, defenses, set-offs and counterclaims it may have against Lessor directly with Lessor, and not set up any such against Lessor's assignee, Lessor hereby agreeing to remain responsible therefor. Lessee on receiving notice of any such assignment shall abide thereby and make payment as may therein be directed. Following such assignment, solely for the purpose of determining assignee's rights hereunder, the term "Lessor" shall be deemed to include or refer to Lessor's assignee.

MISCELLANEOUS: Lessee will not change or remove any insignia or lettering on the equipment and shall conspicuously identify each item of the leased equipment by suitable lettering thereon to indicate Lessor's ownership. All transportation charges shall be borne by Lessee. All notices relating hereto shall be mailed registered to Lessor or Lessee at its respective address above shown or at any later address last known to the sender. If any part hereof is contrary to, prohibited by or deemed invalid under applicable laws or regulations of any jurisdiction, such provision shall be inapplicable and deemed omitted but shall not invalidate the remaining provisions hereof. Lessee waives all rights under all exemption laws. Lessee admits the receipt of a true copy of this Equipment Lease. This lease is irrevocable for the full term hereof and for the aggregate rental herein reserved, and the rent shall not abate by reason of termination of Lessee's right of possession and/or the taking of possession by Lessor or for any other reason, and delinquent instalments of rental shall bear interest at 1 1/2% per month if not prohibited by law, otherwise at the highest lawful contract rate.

PURCHASE OPTION: At any time after February 22, 1976, if Lessee has paid in full all rentals owing hereunder and be not then in default hereunder, Lessee shall have the option to purchase said equipment upon giving written notice not less than 30 days prior to expiration of the original term hereof. The purchase price shall be: \$1.00

If Lessee is a corporation, this Lease is executed by authority of its Board of Directors.

U. S. Scrap Corp. (Lessee)

(Signature of Individual or name of Corporation or Partnership)

By John Martell (Seal)
(If Corporation, have signed by President, Vice-President or Treasurer and give official title. If Owner or Partner, state which.)

(Witnesses as to signature of Lessee)

All-State Equipment Company

ACCEPTED: (Lessor)

By OG Buchanan its Secy-Treas